

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY DeFRANCO,)	
)	
)	
Plaintiff,)	
)	Civil Action No. 04-230-ERIE
V.)	
)	
)	
SUPERINTENDENT WILLIAM WOLF;)	
STEVE REILLY; DENESE BRUNNER;)	
MANAGER ROD SHOWERS; CASE)	
MANAGER JUDY JACKSON;)	
DR. JOHN DOE; JANE DOE;)	
JEFFREY BEARD; ASSIST. SUPER.)	
WILLIAM BARR; MARILYN)	
BROOKS,)	
)	
Defendants.)	

**MOTION TO CLARIFY DEADLINE FOR RESPONSE TO PLAINTIFF'S
COUNTERSTATEMENT OF UNDISPUTED MATERIAL FACTS and CROSS MOTION
FOR SUMMARY JUDGMENT**

AND NOW, come the defendants, Superintendent William Wolfe, Steve Reilly, Denise Brunner (incorrectly identified as Denese Brunner), Unit Manager Rod Showers, Case Mgr.—GECAC Judy Jackson, Jeffrey Beard, Assistant to the Superintendent William Barr, and Marilyn Brooks (incorrectly identified as “Mariland”) by their attorneys, Thomas W. Corbett, Jr., Attorney General, Mary Lynch Friedline, Senior Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief Litigation Section, and in support of their Motion to Clarify Deadline for filing a response to Plaintiff’s Cross Motion for Summary Judgment and Counterstatement of Undisputed Material Facts (Doc. #'s 229, 230), state the following::

1. Plaintiff filed a pleading entitled “Cross-Motion for Summary Judgment” on October 16, 2006 (Doc. # 229) and a Counterstatement of Undisputed Material Facts (Doc. 230).
2. Plaintiff’s Cross Motion for summary judgment, while requesting judgment for plaintiff, is more in the nature of a response to Defendants’ previously filed Motion for Summary

Judgment. If plaintiff's filing is viewed as a response, defendants' reply would be due within 15 days (by October 31, 2006) in accordance with Local Rule 56.1.D. However, if it stands on its own as a Cross Motion, then defendants' response would be due in 30 days, or by November 15, 2006.

3. Regardless of how plaintiff's motion is styled, defendants desire to file a brief response, and to that end, undersigned counsel is in the process of obtaining additional declarations to address several assertions of "fact" by plaintiff in his counterstatement and cross motion.

4. Unfortunately, it may not be possible to finalize those declarations, particularly ones from medical personnel, before October 31, 2006. Accordingly, defendants request that the deadline for filing a response to plaintiff's cross motion for summary judgment and counterstatement of facts be set for November 15, 2006.

WHEREFORE, defendants request that this Honorable Court grant them until November 15, 2006 to file their response to Plaintiff's Cross Motion and Counterstatement.

Respectfully submitted:

Thomas W. Corbett, Jr.
Attorney General

By: /s/ Mary Lynch Friedline
MARY LYNCH FRIEDLINE
Senior Deputy Attorney General
Attorney I.D. No. 47046

Office of Attorney General
6th Fl., Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219
Date: October 25, 2006

CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2006, I electronically filed the foregoing ***Motion to Clarify Deadline for Response to Cross Motion for Summary Judgment and Counterstatement of Facts*** with the Clerk of Court using the CM/ECF system. This document will be mailed via U.S. mail to the following non CM/ECF participants:

Anthony DeFranco, CZ-3518
SCI-Albion
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By: /s/ Mary Lynch Friedline
MARY LYNCH FRIEDLINE
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